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September 12, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: CC Docket No. 95-116

Dear Mr. Caton:

Transmitted herewith, on behalf of TDS Telecommunications Corp., are an original and nine (9) copies of its comments in the above-referenced proceeding.

In the event of any questions concerning this matter, please communicate with this office.

Very truly yours,

Margot Smiley Humphrey

Margot Smiley Humphrey

Enclosures

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	RM-8012

COMMENTS OF TDS TELECOM

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September 12, 1995

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
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Washington, D.C. 20554

In the Matter of	)	
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Telephone Number Portability	)	CC Docket No. 95-116
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COMMENTS OF TDS TELECOM

TDS Telecommunications Corp. (TDS Telecom), by its attorneys and on behalf of its 100 primarily rural local exchange companies (LECs) in 29 states, files these comments to respond to the Commission's July 13, 1995 Notice of Proposed Rulemaking (NPRM) in the above-captioned proceeding.[1]

Introduction and Summary

TDS Telecom urges the Commission not to overlook the specific cost and benefit analysis necessary for determining number portability policies for small and rural LECs. The Senate and House-passed communications bills, S. 652 and H.R. 1555, are now awaiting conference. Both recognize the need for separate policies for the unique needs of customers in rural and small town markets and their serving LECs. In view of the different conditions that confront this segment of the industry, the Commission should not mandate across-the-board implementation of any number portability plan without assuring itself that the gain to rural consumers will outweigh the costs and burdens. Costly and burdensome software,

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[1] In the Matter of Telephone Number Portability, CC Docket No. 95-116, FCC 95-284 (released July 13, 1995).

network, operations and other changes are necessary to provide expansion of number portability. Thus, difficult cost recovery issues require resolution. The Commission should make sure that it does not impose number portability requirements that will increase rural rates or delay and even prevent network upgrades by diverting small and rural LECs' resources to meeting number portability requirements. However, the Commission should actively promote industry development of nationwide technical standards that the Commission can order for the sake of uniformity and efficiency.

Number Portability Among Local Service Providers
Is a Worthy Goal, But Requires Cost-Benefit Evaluation

TDS Telecom supports a general policy encouraging portability of local telephone numbers within a service area from one authorized local exchange provider to another to benefit consumers. Current offerings of Remote Call Forwarding and Direct Inward Dialing in areas where competition has been authorized are providing a market-driven approach. LECs should be allowed to continue these offerings that respond to marketplace signals. These methods impose the costs of assisting competing providers to gain market share upon those providers and their customers. Unless the Commission decides that number portability should be available on a universal, nationwide basis -- and devises a mechanism for footing the bill for above average costs without overburdening customers who will not benefit much, if at all -- only those who directly benefit from market-driven solutions should pay.

The Commission seeks to expand the availability and scope of number portability to spur local competition. TDS Telecom supports the Commission in its effort to address the complicated issues raised in evaluating short and long term policies for telephone number portability.[2] While expanded number portability can foster local competition, there is no reason to assume that end-users of competitors' or existing LECs' services would support a blank check policy of maximizing number portability at any price. The Commission should not equate the interests of competitors with the interests of customers.

If number portability is to be required as a matter of public policy by federal or state regulators or Congress, the costs of the public policy mandate should be shared. But first the Commission or other decision makers should be able to point to nationwide public benefits, like those associated with 800 number portability, which justify imposing the costs on the public switched network as a broadly beneficial nationwide network upgrade. It is of great importance, for example, not to saddle those rural, residential and small business customers -- who will not soon (or perhaps ever) have choice of competitive local providers -- with the costs of assisting competitors to serve urban and large business users, as well as the few most profitable rural customers.

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[2] The Commission has raised questions about three types of number portability: (a) when a customer changes local service provider in the same area ("service provider portability"), (b) when a customer can maintain the same telephone number in spite of his geographic location ("location portability") and (c) when a customer for a "non-geographic" service such as 900 or 500 service seeks to maintain the number while changing service or provider ("service portability").

The Commission Should Guide But Not Mandate Number Portability

The public interest equation which should guide the Commission's study and resolution of the complex issues raised in this proceeding should reflect (a) technical feasibility, (b) efficiency, (c) the costs and burdens of different long term approaches, (d) the overall impact on universal service and rates for consumers with and without competitive alternatives, and (e) incentives to upgrade the public switched telephone network. In working towards a longer term goal of expanded number portability, the Commission should assume a leadership role in promoting nationwide technical compatibility and standards. TDS Telecom urges Commission involvement to avoid the proliferation of many uncoordinated state technical solutions. Multiple state or market-driven approaches would increase costs, impair interoperability and reduce efficiency. The Commission should rely on the expertise of industry technical and standard-setting mechanisms to achieve technical uniformity under general Commission supervision.

The Commission should not, however, mandate the implementation of local number portability or preempt state authority even for changes in service provider in the same market. Each state should retain the authority to require local provider number portability for service provider changes as it tailors its policies towards local competition. Indeed, until communications legislation is enacted by Congress and signed into law by the President, the

Commission should be cognizant of the statutory limits on its jurisdiction over local wireline telephone service competition.[3]

Number Portability for Small and Rural Customers
Requires Separate Evaluation and Policy

The NPRM does not undertake consideration of how proposed policies could affect different LECs and their customers in different ways. In sharp contrast, S. 652 and H.R. 1555, the two versions of comprehensive new telecommunications policy,[4] deal separately with small and rural LEC number portability concerns, albeit in somewhat different ways. The relevance for this proceeding is that the Commission should not lump all LECs together under a single policy when both houses of Congress have taken care not to do so: S. 652 and H.R. 1555 both require number portability for large LECs to accommodate changes in service provider within the same service area. But each bill recognizes that attaching new interconnection and access requirements to small, mid-size and rural LECs may not be justified. H.R. 1555 (§ 242(a)(4) and (e) through (g)) would exempt small and rural LECs from the local service provider portability requirements in the same area placed on larger LECs, unless the Commission finds, upon a bona fide request for portability, that the requirement is feasible, not economically burdensome and consistent with specified universal

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[3] 47 U.S.C. § 152(b).

[4] Each bill has already been passed by one house of Congress, and the two bills now await a conference that will reconcile differences in Senate and House provisions.

service provisions.[5] S. 652 (§ 251(i)(3)) would direct the Commission and states to waive or modify the local portability requirement for rural LECs unless the requirement could be found to satisfy a technical, economic and public interest test.[6]

TDS Telecom, the Rural Telephone Coalition (comprised of NRTA, NTCA and OPASTCO) and USTA have all actively supported the rural LEC exemption in H.R. 1555. The Commission should be as cautious as Congress about imposing number portability obligations on small, rural and mid-size LECs.

There Is No Reason to Believe that the Speculative Benefits of Number Portability for Customers Served by Small or Rural LECs Would Outweigh the Costs and Burdens

The cost of providing local provider or geographic location number portability in areas served by small and rural telephone companies may be higher than elsewhere. Upgrades for small switches serving fewer customers and carrying less traffic than large LEC switches are typically not less costly than upgrades for large switches.[7] To the contrary, upgrades are expensive for both and impose higher unit costs on small and rural providers without a large customer base.[8] Even expanded number portability for changes

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[5] The exemption would not be automatically available for a LEC using the same facilities to provide telephone and cable television service in its telephone service area.

[6] Both bills would also permit waiver for small and mid-size LECs under stated standards.

[7] See, D. Dawson, L.M. Buckley, J.R. Rose, "Keeping Rural America Connected: The Dynamics of Serving Rural America," OPASTCO Roundtable (September-October 1995) at 25-29.

[8] Id., at 29.

in local service providers requires significant upgrades. Switches not yet upgraded to digital must be replaced. Software must be purchased and installed for <u>each</u> switch.

The cost of nationwide or even regional number portability for typical business and residential telephone numbers -- currently used to provide a geographic and routing address for calls -- to enable the customer to use the same number in new geographic locations could be higher, too. Several long term number portability schemes have been advanced, involving three distinct call processing approaches. The three approaches, classified by which carrier has the responsibility for determining whether a number is designated as portable and where to direct the call, are: terminating access provider (TAP) plans, originating service provider (OSP) plans, and plans where the second to last (N minus 1 or N-1) carrier makes the portability and addressing determinations. All involve network and operations changes and database development or access.

The changes would require access to Advanced Intelligent Network (AIN) and SS7 capabilities beyond what large LECs are now deploying to meet market demand. LECs without AIN would have to send calls to another carrier or entity to be processed.

Among the concerns raised by one or more of the scenarios are the need for multiple number translations and substitutions, use of additional scarce number resources, the need to rearrange or avoid certain current network configurations, data responsibilities for a competitor's numbers, multiple database dips or a one-time change of numbers for those wanting numbers that are not geographically limited. A major long term dilemma and potential cost results from the need either to retain geographic numbers to allow continued use of current billing, routing and other procedures or to incur costs and burdens of major network and operations changes. Geographic telephone directories and operator information would require modifications. Abandoning the traditional geographical address codes used as telephone numbers today would also deprive customers of the current means of knowing a called party's location and whether a call is local, interstate or intrastate toll.

TDS Telecom could support a general, non-mandatory policy objective (with separately tailored policy for small and rural LECs) of evolving number portability towards a model that would seek to:

- Make available local service provider, location and service portability in response to market demands;
- Preserve existing network capabilities and offerings such as CLASS services;
- Maintain 911 and operator-assisted calls;
- Minimize database queries;
- Support existing billing, rating and customer knowledge of when local, state or interstate toll charges would apply to a call; and
- Prevent application of routing or other responsibilities designed to benefit entrants to existing providers unless such entrants are subject to the same obligations.

We stress that the Commission should not mandate implementation of number portability for any LEC. However, even if the Commission (or legislation) requires large LECs to implement service provider portability, it should not mandate implementation for small, rural or mid-size LECs unless it can conclude on the basis of factual analysis that the benefits to their customers will exceed the costs to be recovered from them.

Fairness and Universal Service Present
Difficult Cost Recovery Issues

The dual goal of cost recovery procedures relating to number portability must be (1) to recover costs from those who benefit and (2) to prevent rate increases or investment disincentives affecting customers that will not benefit. If areas with high unit costs, low population density, and low traffic volumes are forced into investments and added expense because of expanding short or long term number portability obligations, two adverse consequences are likely. First, the deaveraging pressures that inevitably accompany competition are likely to saddle customers without competitive options with a large share of all costs, including number portability implementation costs. To prevent this, the Commission should either (a) provide high cost support at network-wide expense or (b) obtain cost recovery for portability from competing providers who benefit and their customers, or at least from customers with competitive choices. Second, if small and rural LECs are forced to invest in software (or even switch replacement) and new signalling and network intelligence to provide service provider or location portability, investments in other improvements implementing an information-rich public network may be deferred or foregone. Rural <u>customers</u> would then lose more useful improvements so that <u>competitors</u> could cherry-pick the few high volume rural customers, raising rates and decreasing scale and scope economies for the residual network.

The cost of implementing number portability, still uncertain, may be high. A general increase in local rates or local rates for rural and residential customers due to implementing number portability would conflict with the important national policy of universal service. Currently available substitutes for number portability have not spurred competition in some areas, where demand for number portability has been weak. Finally, the potential benefits of implementing number portability for the majority of high cost, low volume rural customers are theoretical and speculative at best.

Service Portability Should Be Left to the Marketplace

The Commission tentatively concludes (¶ 7) that service portability for 500 and 900 services -- similar to the already-ordained 800 service portability -- is desirable. Unlike 800 services, 500 service is new and 900 service demand remains uncertain. If customers want service portability and are willing to pay for establishing, maintaining, and administering the necessary databases, software upgrades and other costs of implementation, the operation of the marketplace should lead to the availability of service portability. Without any evidence that either demand or consumer benefit would be significant, the Commission should not make service portability a goal -- and cost -- of national communications policy at this time.

Conclusion

The Commission deserves credit for taking on difficult questions in this proceeding. It should follow the lead of S. 652 and H.R. 1555 and exempt or at least give particularly searching evaluation to any number portability requirements proposed for small, rural or mid-size LECs. Technical uniformity is desirable, and standards should be developed by industry entities under a general Commission supervision. The Commission must be attentive to the costs, dislocations and changes number portability will entail, so that it can balance the benefits of spurring local competition against the costs and burdens.

Respectfully submitted,

TDS TELECOMMUNICATIONS CORP.

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